

October 20, 1954

Honorable Hugh Gregg
Governor of New Hampshire
Concord, New Hampshire

Dear Governor Gregg:

You have inquired whether or not a meeting of the Governor and Council is necessary as a condition precedent to proper accreditation of the successor to Senator Robert W. Upton. You are respectfully advised that in my opinion the answer to this question is in the affirmative.

R. L., c. 37, provides in part that all the provisions of law relating to the election of representatives in congress shall apply to the election of United States senators (except when inconsistent with the laws of the United States). R. L., c. 37, s. 2. This same chapter further provides that in the election of representatives the returns of votes for representative shall be "made out, signed, certified, sealed, directed, transmitted, receipted for, examined and counted, . . . in the same manner as provided for the return of votes for state senators." R. L., c. 37, s. 7.

The foregoing provision incorporates by reference Article 33 of the Constitution, which in respect to the election of state senators provides that ". . . the governor, and a majority of the council for the time being, shall, as soon as may be, examine the returned copies of such records, and fourteen days before the first Wednesday of January, he shall issue his summons to such persons as appear to be chosen senators, by a plurality of votes, to attend and take their seats on that day. . . ." This requirement operates as a condition precedent to delivery of the certificate of election to the winning candidate which is contemplated by R. L., c. 37, s. 8, and which is to be signed by the Governor and countersigned by the Secretary of State under the seal of The State of New Hampshire.

It is noted that the returns from the towns and wards throughout the state are required to be forwarded to the Secretary of State within five days from the date of the election. (R. L., c. 36, s. 2) Thus the complete returns must be in the mail to the Secretary of State not

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